

Agenda

Item #4



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

To: Commissioners
From: Jonathan Wayne, Executive Director
Date: January 9, 2013
Re: Purchase of Equipment by House Candidate Todd Delaney

This memo is to seek your guidance on the acceptability of one candidate's use of Maine Clean Election Act (MCEA) funds for equipment. Todd Delaney was a MCEA candidate in 2012 for the Maine House of Representatives, District 102. He also ran in 2010 as a traditionally financed candidate.

Candidate's Purchase of 16 Styluses

The Commission staff examined receipts for Mr. Delaney's purchases of office equipment at Staples in the conduct of our routine compliance review. On three dates in late September and October, he purchased 16 styluses:

	9/22/2012	10/2/2012	10/14/2012	Total	After employee discount and sales tax
Targus tablet stylus (\$14.99)	5	4	5	\$209.86	\$198.32
Targus 2 in 1 stylus (\$24.99, includes pen)		2		\$49.98	\$47.23
				Total	\$245.55

The receipts are attached. Styluses are shaped like a pen, but they have a rubber tip about the size of a pencil eraser used to touch the screen of an electronic device such as an iPad, smartphone, or book reader. Some users find they have more precision when pressing small, on-screen buttons. Mr. Delaney works part-time at Staples. The cheapest models at Staples are \$14.99, but there are 5-packs and 10-packs for sale on online websites such as Amazon and eBay that are much less expensive (just one or two dollars per pack).

Ms. Thompson expressed that one or two tablet styluses were a reasonable campaign expense, but she inquired why Mr. Delaney needed to buy 16 styluses within four weeks for campaign purposes. The candidate explained by e-mail (and by phone to me yesterday) that during his political campaign he frequently used three of his electronic devices to respond to Facebook and other communications: a smartphone, an iPad, and kindle with internet access. He would use these devices outside of his home when going door-to-door and for other purposes. He explained that he lost a number of styluses (see attached e-mail). After the election, people he visited returned four or five of styluses that he had left at their homes. He now has about six or seven. He said that the styluses were used only for campaign purposes, and that he did not use them for his employment.

Relevant Law and Guidelines

The MCEA states that public campaign funds must be used for “campaign-related purposes.” The Commission has adopted the attached guidelines, which state

Expenditures for “campaign-related purposes” are those which are traditionally accepted as necessary to promote the election of a candidate to political office. Candidates using MCEA funds must also take into account the public nature of the funds, the underlying objectives of the MCEA, and the reasonableness of the expenditures under the circumstances.

Staff Point of View

Candidate Registrar Sandy Thompson told Mr. Delaney that the purchase of 16 styluses may not be within the Commission’s expenditure guidelines. She inquired whether he would use personal funds to reimburse his campaign for 14 of the 16 styluses he purchased with MCEA funds, in order to resolve the issue. Mr. Delaney declined, because he believes that the 16 styluses were a legitimate campaign expensive. He understands that the staff would be turning to you for a decision at a public meeting.

The Maine Clean Election Act program is funded with taxpayer dollars. Most candidates use common sense when making purchases with scarce campaign funds. All campaign

expenses are listed on campaign finance reports that are available to the public. We are concerned that when the public sees campaign expenses that could be viewed as personal or unnecessary, it could weaken the public's confidence that the program is accountable to taxpayers.

The Commission staff has no objection to a candidate buying one or two or even three styluses, in the last month of the campaign. If a candidate is prone to misplacing them on a large scale, he should take steps to limit the public expense such as buying them in bulk online, wearing them on a lanyard, or simply foregoing them for the last month of the campaign. We are inclined to view Mr. Delaney's situation as somewhat analogous to a candidate using public funds to buy 16 tracphones (low-cost cell phones) or hammers, knowing that he may lose them.

Our inclination is to determine that 14 of the 16 styluses are not allowed under the guidelines because they are not reasonable, taking into consideration the public nature of the funds used to purchase them. We suggest requesting that Mr. Delaney reimburse his campaign roughly \$200 for those 14 styluses. That money would be returned to the state. We do not like to ask candidates to use personal funds to reimburse the MCEA program, but we are hopeful that candidates understand that there are limits on acceptable campaign purchases when public dollars are being spent.

We appreciate your independent view of the situation to verify that we are finding the right balance between giving candidates the latitude to campaign as they wish while using public funds responsibly.

Thank you for your consideration of this memo.



2012 EXPENDITURE GUIDELINES

For Maine Clean Election Act Candidates

Candidates must spend Maine Clean Election Act (MCEA) funds for campaign-related purposes and not for other purposes such as the candidate's personal benefit, party-building, or to promote another candidate's campaign.

PERMISSIBLE CAMPAIGN-RELATED EXPENDITURES

Expenditures for "campaign-related purposes" are those which are traditionally accepted as necessary to promote the election of a candidate to political office. Candidates using MCEA funds must also take into account the public nature of the funds, the underlying objectives of the MCEA, and the reasonableness of the expenditures under the circumstances. In Maine, traditional campaign expenses have included:

- Political advertising expenses
- Campaign communications such as signs, bumper stickers, T-shirts, or caps with campaign slogans, etc.
- Campaign events (e.g., invitations, food, tent or hall rental, etc.)
- Printing and mailing costs
- Office supplies
- Campaign staff expenses
- An entry fee for an event organized by a party committee, charity, or community organization or an ad in an event publication, as long as the expenditure benefits the candidate's campaign.
- Campaign travel expenses, such as fuel and tolls

PROHIBITED EXPENDITURES

Candidates may not use MCEA funds for personal expenses. This means candidates may not borrow from or use MCEA funds for personal or other non-campaign expenses, even if temporarily and with the intention of repaying the funds. Personal expenses are for goods and services that the candidate would otherwise purchase independently of the campaign, such as:

- Day-to-day household expenses and supplies
- Mortgage, rent, or utility payments for the candidate's personal residence, even if part of the residence is being used by the campaign
- Vehicle repair and maintenance
- Non-campaign transportation expenses
- Clothing, including attire for political functions such as business suits or shoes

Maine Clean Election Act funds may not be spent to:

- pay a consultant, vendor, or campaign staff for anything other than campaign goods or services
- compensate the candidate for services provided by the candidate
- make independent expenditures supporting or opposing any candidate, ballot question, or political committee
- assist in any way the campaign of any candidate other than the candidate for whom the funds were originally designated
- contribute to another candidate, a political committee, or a party committee other than in exchange for goods and services
- make a donation to a charity or a community organization, other than in exchange for campaign goods or services
- promote political or social positions or causes other than the candidate's campaign
- make a thank-you gift (including a gift card) to a volunteer or supporter
- pay civil penalties, fines, or forfeitures to the Commission, or defend the candidate in enforcement proceedings brought by the Commission
- assist the candidate in an election recount

GUIDELINES ON SELECTED ISSUES

Salary and Compensation. Candidates may use MCEA funds to pay for campaign-related services by staff or consultants, provided that compensation is made at or below fair market value and sufficient records are maintained to show what services were received. Documentation must include a description of the labor performed by the staff member or consultant, and an itemization of any goods or services purchased from other vendors including date, vendor, and amount (see "Required Record-Keeping" below).

Car Travel. MCEA campaigns may reimburse the candidate or campaign workers for their car travel, as long as the person reimbursed has kept a contemporaneous travel log. For 2012, the campaign may make a travel reimbursement up to the number of miles traveled as reported in the log multiplied by \$0.44. Campaigns must keep the travel logs for three years, and provide them to the Commission if requested. Candidates and their spouses or domestic partners may spend any amount of their personal funds for campaign travel without seeking reimbursement. Other individuals may spend up to \$100 of their personal funds to pay for travel without making a contribution to the campaign.

Electronics and Other Personal Property. Goods purchased with MCEA funds that could be converted to personal use after the campaign (e.g., computers, fax machines, and cell phones) must be sold at fair market value and the proceeds returned to the Maine Clean Election Fund no later than 42 days after the final report for the campaign. Candidates are welcome to lease electronic and other equipment.

Ballot Question. Candidates may state their position with respect to a ballot question in a communication financed with MCEA funds. Candidates may not use MCEA funds for a paid communication that primarily supports or opposes a referendum or citizen initiative.

Food. Candidates may spend a reasonable amount of MCEA funds on food for campaign events or to feed volunteers while they are working. Legislative candidates may not use MCEA funds to purchase food that is consumed only by the candidate and/or the candidate's spouse. Gubernatorial candidates may use MCEA funds to purchase meals for the candidate and/or the candidate's spouse if associated with travel for campaign purposes.

Lodging. Candidates may use MCEA funds to pay for lodging if necessary for campaign purposes, but must keep lodging expenses reasonable.

Campaign Training. Candidates may use MCEA funds for tuition or registration costs to receive training on campaigning or policy issues.

Post-Election Notes and Parties. Candidates may spend up to the following maximum amounts of MCEA funds on post-election parties, thank you notes, or advertising to thank supporters or voters: \$250 for State Representative candidates and \$750 for State Senate candidates. Candidates may also use personal funds for these purposes.

REQUIRED RECORD-KEEPING

The MCEA requires participating campaigns to keep bank or other account statements for the campaign account covering the duration of the campaign. For every expenditure of \$50 or more, the campaign must also keep:

- (1) an invoice from the vendor stating the particular goods or services purchased, and
- (2) a cancelled check, cash receipt, or other acceptable proof that the vendor received payment.

If the campaign pays \$500 or more during an election cycle to someone for providing campaign staff or consulting services, the campaign must keep a contemporaneous document such as an invoice, contract, timesheet, or other document specifying in detail the services provided, the amount paid and the basis for the compensation paid by the campaign. Please select a treasurer who will be responsible about keeping these records.

AUDITING AND COMPLIANCE

In 2012, the Commission staff will audit at least 20% of MCEA legislative candidates. The staff will review all receipts and expenditures disclosed by MCEA candidates in campaign finance reports. The Commission frequently requests additional information from candidates to verify that public funds were spent for campaign-related purposes. Candidates who misuse public funds may be required to repay some or all public funds received, may be liable for civil penalties, and may be referred to the State Attorney General for possible criminal prosecution.

Thompson, Sandy

From: Todd Delaney [REDACTED]
Sent: Wednesday, December 12, 2012 3:54 AM
To: Thompson, Sandy
Cc: [REDACTED]
Subject: Fwd: Staples 10 15 2012 receipt styluses
Attachments: delaney_staples_10_15_20120001.pdf

Sandy,

This is same as stated before just again:

I tried to carry my campaign to neighborhoods and would park and walk house to house then return to my car. Too many times I would start with couple of styluses and by time I got back I would have one of three I started with and used up a bunch of my own down to almost taking my daughters one for her ipad at a school. Like pens or batteries for microcassette in this digital age they were necessary and I got some back from people left in my mailbox with nice little note sorry you lost and you left this behind better luck next time. After I cleaned out my car found two and have only few left mostly chewed on and two broke/deflated push button end.

Todd Delaney
[REDACTED]
[REDACTED]

-----Original Message-----

From: Todd Delaney [REDACTED] >
To: toddrdelaneyme [REDACTED]
Sent: Tue, Dec 11, 2012 4:22 pm
Subject: Staples 10 15 2012
[REDACTED]
[REDACTED]
[REDACTED]

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SALE

1587525 10 003 01622

0108 09/22/12 05:31

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QTY SKU

PRICE

REWARDS NUMBER 3602726865

2 INK RECYCLING LIMI

725137 0.010ea

0.00

Instant Savings <-0.02>

1 TARGUS PINK TABLET

092636263492

14.99

1 TARGUS PINK TABLET

092636263492

14.99

1 STAPLES COPY SELEC

897802

48.99 *case of paper*

1 TARGUS BLUE TABLET

092636261795

14.99

1 TARGUS UNIVERSL TA

092636258955

14.99

1 TARGUS UNIVERSL TA

092636258955

14.99

1 HP 60XL BLK/60 STN

886112115876

51.99

1 HP 60XL BLK/60 STN

886112115876

51.99

1 UNI-BALL 207 GEL R.

070530001044

1.99

SUBTOTAL

229.91

10% Associate Discount

-22.99

Standard Tax 5.00%..

10.35

TOTAL

\$217.27

Debit Tender:

217.27

TOTAL ITEMS 11

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1005088 11 003 06506

0108 10/14/12 05:06

YOUR OPINION COUNTS AND WILL BE REVIEWED

QTY	SKU	PRICE
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REWARDS NUMBER 3602726865

1	TARGUS PINK TABLET	14.99
	092636263492	

092636263485	TARGUS GREEN TABLE	14.99
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1	TARGUS GREEN TABLE	14.99
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1. TARGUS PINK TABLET
092636263492 14.99

1	TARGUS PINK TABLET	14.99
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SUBTOTAL	74.95
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10% Associate Discount	-7.50
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Standard Tax 5.00%	3.37
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TOTAL	\$70.82
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Debit Tender: 70.82

TOTAL ITEMS 5

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STAPLES

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SALE 1585244 6 001 26292
 1259 10/02/12 16:20
 QTY SKU PRICE

DUPLICATE COPY

Not Valid For Refund

REWARDS NUMBER 3602726865

1	TARGUS 2 IN 1 STYL		
	092636261511	24.99	
1	TARGUS PINK TABLET		
	092636263492	14.99	
1	TARGUS 2 IN 1 STYL		
	092636261511	24.99	
1	TARGUS PINK TABLET		
	092636263492	14.99	
1	TARGUS PINK TABLET		
	092636263492	14.99	
1	DURACELL COPPERTOP		
	041333740645	10.99	
	Instant Savings [-1.50]		
1	TARGUS PINK TABLET		
	092636263492	14.99	
7	UNI-BALL 207 GEL R		
	070530001044 1.990ea	13.93	-PENS

SUBTOTAL	134.86
10.0% Associate Discount	-13.49
Standard Tax 5.00%	6.07

TOTAL	\$127.44
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Debit Tender:	127.44
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TOTAL ITEMS 14

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Works on all capacitive touch surfaces

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The stylus features a durable rubber tip that won't scratch the screen of your device and allows the user to type accurately and comfortably. The stylus engages directly with your electronic, touchscreen device, requires no power or software to operate and instantly works right out of the box. Works on all capacitive touch devices.

- Allows users to type accurately and comfortably
- Use to take notes, draw or turn a page with a soft, durable rubber tip
- Works on all capacitive touch surfaces
- Use with Samsung Galaxy, iPad, iPod Touch, iPhone and others

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Targus 2-In-1 Stylus

Item: 369693 Model: AMM02TBUS

[Read 21 Reviews](#)

Allows users to type accurately and comfortably; use to take notes, draw or turn a page; soft, durable...

Other end of the 2 in 1 Stylus functions as a ballpoint pen for traditional notetaking

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A stylus and pen all in one!

The Targus 2-in-1 Stylus for Tablets makes it easy to take notes, draw or simply turn a page. Featuring a durable rubber tip that won't scratch the surface of the tablet, the 2-in-1 Stylus allows the user to type accurately and comfortably. The tip of the stylus engages directly with your electronic, touch-screen device, requires no power or software to operate and instantly works right out of the box. If you need to jot down notes during a meeting the other end of the stylus conveniently functions as a pen. The 2-in-1 Stylus is compatible with standard Parker Ballpoint refills.

- Allows users to type accurately and comfortably; use to take notes, draw or turn a page; soft, durable rubber tip won't scratch screen
- Other end of the 2 in 1 Stylus functions as a ballpoint pen for traditional notetaking

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